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## **Submission on National Energy Guarantee - Regulation Impact Statement Consultation Paper**

*This submission is not confidential*

Thank you for providing the opportunity to comment on the Regulation Impact Statement consultation paper.

As with all of the COAG ESB documents to date, the issue of the legal allocation of emissions through the supply chain to end use customers has been ignored. This is unacceptable. Furthermore, the important matter of what changes will need to be made to the National Greenhouse and Energy Reporting (NGER) framework as the legislative instrument to enable the NEG Emissions Registry to operate, has also been misunderstood, ignored or both.

### **The proposals to date do not reflect the COAG Best Practice Principle 5**

**Principle 5:** *Providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear.*

It is not clear whether the regulatory solution proposed will be better for community and competition, particularly in end use markets, because there is no proposal in relation to how the National Greenhouse and Energy Reporting Framework would be changed to support contractual GHG accounting of scope 2 emissions through the electricity market process to end use customers.

It is not clear whether there will be reform of the NGER Technical Guidelines and NGER Determination to stop the current multiple accounting of renewable energy and GHG reduction claims, or whether the NEG through the NEG Registry will introduce yet another accounting and allocation framework on top of the confused non legal allocation conventions already in use.

No clear decisions or prescriptive regulatory changes have been proposed to the NGER Technical Guidelines or NGER Determination in relation to GHG accounting and allocation needs of the NEG. There is merely vague reference to NGER, which currently works in a way that is entirely contradictory to the NEG.

There has been no effort to standardise the different ways that GHG emissions are claimed by end users, both those that are liable corporations under the NGER Framework and those electricity end users that sit outside any NGER obligations. There is no single framework for

any type of electricity or any emissions intensity to be allocated to any retailer or end user in law.

There seems to be an extraordinary reliance on the projections of Frontier Economics to justify the approach to the emissions constraint. However, there is a high probability that this work has not adequately incorporated major drivers of energy transition. There is growing uncertainty on whether the NEG emissions constraint for the electricity sector is more ambitious than business as usual. . Under such conditions, consideration should also be given to avoid the red tape of an emissions constraint that will have compliance costs but not achieve anything. Consideration should be given to establish the GHG contractual accounting reforms that will support greater end use consumer choice and competition for electricity products of differing scope 2 GHG intensity. This would also provide a fair go for accredited renewable electricity which to date has charged as a penalty cost rather than an alternative product for GreenPower customers.

The language used in NEG documents adopts the AEMO language of the National Electricity Market which is not consistent with 'plain language'. The language fails to clearly define end use customers and does not provide full descriptors of middle market traders. The politicians that will be attempting to understand and assess the merits of the NEG, if not closely attuned to the operations of the NEM, will be confused by terms such as "Market Customers", which are not end use customers.

### **Comments on: 4.2.3 Registry Operations**

The NEG Registry operations section refers to NGER as if it supports the NEG and it is ready to go. The NGER Scope 2 method does not support the NEG and major fundamental changes would be required. These would be the biggest change to the NGER Framework since its establishment in 2007/08. There should be a complete section on the GHG rule making organisation and proposed changes to the NGER Framework required. Why is it that the electricity aspects have sound governance proposals and structures but the GHG accounting and allocation aspects have no such governance or proposals? The NEG Registry cannot operate without a clear framework for GHG rule making and legislative instruments that enable the Registry.

### **Comments on: 5 Impact Analysis**

The impact analysis has been carried out substantially assessing the impacts of options within the NEG proposal, but has failed to assess the broader impacts of how the preferred NEG model will impact on end use consumers in a low carbon economy, nor has it considered the impacts on required changes for the NGER Framework (Technical Guidelines and Determination). These changes substantially involve switching from physical accounting to contractual accounting for scope 2 emissions. The changes would actually: be positive for consumers, improve clarity and improve competition if properly designed with principles of market choice for GHG intensity, integrity and no double counting.

### **Comments on: 5.3.3 Competition impacts**

Competition impacts on consumer choice have not been identified as the COAG ESB has not considered the broader issues and opportunity relating to retailers competing on the GHG intensity of their products and on renewable electricity.

There is a bias evident in the following statement:

*“Some businesses and household consumers undertake voluntary action to reduce emissions associated with their electricity use. A prominent example is the GreenPower program”.*

It is suggested that the ESB has not understood the rapid explosion of renewable electricity related Power Purchase Agreements by councils and cities, universities, large corporations including mining companies and steel smelters. Regardless of whether these do or do not include the voluntary surrender of LGCs, they indicate a substantial growing demand for renewable electricity and electricity of lower scope 2 GHG emissions in retail/end user markets. The poor and declining participation in GreenPower does not reflect the potential of the wider market for end use of renewable electricity. The proportion of renewable electricity end use customers will also increase at a much faster rate with NGER reform.

GreenPower has failed to date because it is typically charged at the penalty opportunity cost of a renewable electricity certificate being used elsewhere, plus it does not provide customers with 'use of renewables' or 'reduced emissions' in law. GreenPower is 100% double counted. The National GreenPower Steering Group has not kept pace with the need for NGER Reforms and has stood by as customer numbers have collapsed for a decade. The Federal Government has also done nothing to improve the legal status of the GreenPower core claim that purchases can be used to reduce consumer emissions, nor has it defined which end users can claim use of renewable electricity.

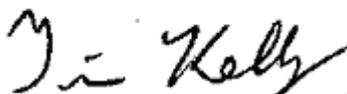
Just as the household take up of solar PV systems was underestimated by governments, I caution that there is a prevailing under-estimation of the potential for end use of accredited renewable electricity that could occur with NGER reforms which are also required to support the NEG.

### **Comments on: 5.3.5 Regulatory burden**

The Regulatory burden in relation to GHG accounting and allocation is undefined as there are no clear proposals on how GHG accounting rules will guide the NEG Registry, how scope 2 GHG accounting methods will be changed and whether these changes will improve clarity on end user GHG emission and renewable electricity use claims or simply make the current bad situation much worse.

As always, I would be happy to discuss this submission in more detail. Further information is available in my other NEG submissions. I hope that the COAG ESB will be in a position to meaningfully engage on the GHG accounting and allocation aspects in the near future as there has been no significant acknowledgement or progress on these issues to date.

Kind regards



Tim Kelly

100% GreenPower customer